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Law Offices

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## MILITANA &amp; MILITANA

St. Petersburg Office  
150 Second Ave. N., 16<sup>th</sup> Floor  
St. Petersburg, FL 33701

Miami Office  
8801 Biscayne Blvd  
Miami, FL 33138

Reply to: Tennessee Office  
5845 Old Hwy. 96  
Franklin, TN 37064  
(615) 799-5800

Supreme Court of the United States  
United States Tax Court  
11<sup>th</sup> Circuit Court of Appeals, Atlanta Georgia  
All State Courts Tennessee \* Florida  
Federal Court, Middle District Tennessee  
Federal Court, Middle District of Florida  
Supreme Court Tennessee

**Primary Response #**  
**(813) 714-2833 (24 hr)**  
**(615) 799-6358 (fax)**

Richard Militana Esq. J.L.-TN  
\*BJ Militana Esq. F.I.-NY (1912-1992)

December 2, 2004

SENT VIA FACSIMILE AND/OR HAND DELIVERY (confirmed by office record)

Jean Stone, Hearing Officer  
Tennessee Regulatory Authority  
460 James Roberts Parkway  
Nashville, TN 37243-005

Re: Matter: In Re: Petition of Kings Chapel Capacity  
Subject: Docket No. 04-00335

Dear Hearing Officer Stone:

Please note my strong objection to the ex-parte letter sent to you on December 1, 2004 from Mr. Walker. Such conduct is not forgiven by "cc" notice of same to this office after the fact. I note and object to the fact that the letter includes an anticipated ruling attempting to unilaterally revise your scheduling order. Mr. Walker agreed to a ruling of an expedited hearing on this matter. The record also reflects that Mr. Walker approved a ruling upon a set schedule revised to accommodate the unavailability of Mr. Walker at an earlier date. Mr. Walker's attempt to abate, avoid and/or change the schedule ruling by you as the TRA Hearing Officer is improper. Any change in your ruling on behalf of the Tennessee Regulatory Board should not be permitted to be made unilaterally and/or ex-parte by Mr. Walker but should be upon proper motion and Order if due process is to be maintained. My client's position remains that your ruling stands and that TWS is in default of the timeline set by you for a filing of a motion to abate, a date agreed upon by all parties and offered to you by Mr. Walker himself. No change of your scheduling ruling may be now entertained contrary to your ruling at the scheduling hearing.

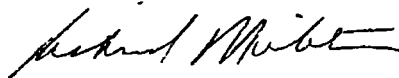
You may also note that Mr. Walker's request to formally rebut any response to his anticipated motion prior to hearing was denied given the necessity to following a time schedule order by you and agreed upon by the parties.

The record clearly evidences that Mr. Walker did not file a Motion to Abate within the time proscribed by your Scheduling Ruling, therefore the right to file any such motion is waived

All parties are entitled to rely upon the scheduling order agreed upon and any violation thereof must be dealt with accordingly. Due process requires that any attempt by Mr. Walker to file a Motion in violation of your order cannot be accepted and must be returned or stricken.

Very truly yours,

MILITANA\* & MILITANA

A handwritten signature in dark ink, appearing to read "Richard Militana", written in a cursive style.

RICHARD MILITANA, ESQUIRE

RM/DKM

CC: CHARLES WELCH  
HENRY WALKER

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\*BJ Militana Esq FL-A1 (1912-1992)

## FACSIMILE COVER SHEET

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TO: Jean Stone, Hearing Officer DATE: 12/2, 2004  
FROM: MILITANA\* & MILITANA TRA FAX SENT TO: (615) 532 7479  
RE: Petition Kings Chapel Capacity  
Docket # 04-00335

NUMBER OF PAGES (INCLUDING COVER SHEET): (3). ORIGINAL WILL NOT FOLLOW BY MAIL.

## THIS FACSIMILE IS...

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